

## **§ 40.256**

shortage or overage in his records and shall, at the time required by the appropriate TTB officer, furnish an explanation in the form of a claim for remission of tax liability as provided in § 40.287. The manufacturer shall pay the tax on any shortage or portion thereof for which he is unable to furnish an explanation acceptable to the appropriate TTB officer.

[T.D. ATF-232, 51 FR 28082, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-289, 54 FR 48840, Nov. 27, 1989; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

### **§ 40.256 Minimum manufacturing and activity requirements.**

The minimum manufacturing and activity requirement prescribed in § 40.61(c) of this part is a continuing condition of a manufacturer's permit, that is, a permit to manufacture tobacco products is conditioned upon a person's principal business activity being the manufacture of tobacco products. A permit may be suspended, and subsequently revoked, if the person's principal business activity under such permit is to receive or transfer tobacco products in bond, or if the person has no activity under such permit for a period of one year. As a minimum activity requirement, the quantity of tobacco products manufactured under the permit must be equivalent to, or exceed, the quantity transferred or received in bond under the permit.

[T.D. TTB-78, 74 FR 29410, June 22, 2009, as amended by T.D. TTB-80, 74 FR 37552, July 29, 2009; T.D. TTB-104, 77 FR 37303, June 21, 2012]

### **§ 40.257 Processed tobacco.**

A manufacturer of tobacco products may be required to obtain authorization from the appropriate TTB officer with regard to the activities involving processed tobacco. See § 40.72. Such manufacturers also must maintain records and may be required to submit reports regarding such activities. See §§ 40.182 and 40.202.

[T.D. TTB-78, 74 FR 29410, June 22, 2009]

## **27 CFR Ch. I (4-1-14 Edition)**

### **Subpart I—Claims by Manufacturers**

#### **GENERAL**

### **§ 40.281 Abatement of assessment.**

A claim for abatement of the unpaid portion of the assessment of any tax on tobacco products or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed. Any claim under this section shall be prepared on TTB F 5620.8, in duplicate, and shall set forth the particulars under which the claim is filed. The original of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the appropriate TTB officer that the claim is valid, shall be filed with the appropriate TTB officer, and the duplicate of the claim shall be retained by the manufacturer.

(68A Stat. 792; 26 U.S.C. 6404)

[T.D. 6871, 31 FR 38, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987]

### **§ 40.282 Allowance of tax.**

Relief from the payment of tax on tobacco products may be extended to a manufacturer by allowance of the tax where the tobacco products after removal from the factory upon determination of tax and prior to the payment of such tax, are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such products, or are withdrawn by him from the market. Any claim for allowance under this section shall be filed on TTB F 5620.8, in duplicate, with the appropriate TTB officer, and shall show the date the tobacco products were removed from the factory. A claim relating to products lost or destroyed shall be supported as prescribed in § 40.301. In the case of a claim relating to tobacco products withdrawn from the market the schedule prescribed in § 40.311 shall